

APPEAL NO. 040388
FILED APRIL 8, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on January 13, 2004. The hearing officer resolved the disputed issues by deciding that the respondent (claimant) sustained a compensable injury on _____, and had disability from May 12 through December 3, 2003. The appellant (carrier) appealed, arguing that the compensable injury and disability determinations are supported by no evidence or alternatively are against the great weight and preponderance of the evidence. The carrier additionally requests that if the determinations are upheld on appeal, that the Appeals Panel hold as a matter of law that the claimant cannot recover disability for a compensable injury during days that she presented to the hospital for conditions unrelated to the compensable injury when no complaint was made to medical personnel with regard to the alleged work-related injury. The claimant responded, urging affirmance of the disputed determinations.

DECISION

Affirmed.

The claimant had the burden to prove by a preponderance of the evidence that she sustained a compensable injury and that she had disability as a result of her compensable injury. Johnson v. Employers Reinsurance Corp., 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). A claimant need not prove that the injury was the sole cause, as opposed to a cause, of the disability. Texas Workers' Compensation Commission Appeal No. 931134, decided January 28, 1994. The Appeals Panel has stated that in workers' compensation cases, the disputed issues of injury and disability can, generally, be established by the testimony of the claimant alone. Texas Workers' Compensation Commission Appeal No. 91124, decided February 12, 1992.

The hearing officer noted that the claimant's testimony concerning the mechanism of injury was credible and that the emergency room records supported the claimant's version of events. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the fact finder, the hearing officer resolves the conflicts and inconsistencies in the evidence and determines what facts have been established from the conflicting evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ); St. Paul Fire & Marine Ins. Co. v. Escalera, 385 S.W.2d 477 (Tex. Civ. App.-San Antonio 1964, writ ref'd n.r.e.). Our review of the record does not demonstrate that the hearing officer's injury and disability determinations are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Thus, no sound basis exists for us to reverse those determinations on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951).

The hearing officer could consider the conflicts in the testimony and evidence and determine that the claimant's evidence was persuasive.

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **ALEA NORTH AMERICA INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Margaret L. Turner
Appeals Judge

CONCUR:

Daniel R. Barry
Appeals Judge

Veronica L. Ruberto
Appeals Judge